IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 1701 of 2003, 7687 of 2004 and 8626 of 2004

1)WRIT PETITION NO : 1701 of 2003:

Between:

T.Vijaya Sekhar, s/o. Sundara Rao,

Aged 35 years, Contractor of Telephone Booth,

Eluru New Bus-station, West Godavari dist.

..... PETITIONER

AND

1)The Managing Director, A.P.S.R.T.C.,

Musheerabad, Hyderabad.

2)The Divisional Manager, A.P.S.R.T.C.,

Eluru, West Godavari dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the second respondent in passing the impugned order dated 13.09.2002 in circular No.M1/437(3)/2002 as illegal, arbitrary, biased and unconstitutional and against the principles of natural justice and consequently direct the second respondent to continue the petitioner's licence to run

the STD telelphone booth in the second respondent's bus station for another period of one year from 30.04.2003.

Counsel for the Petitioner: MR. D.Lalitha Prasad.

Counsel for the Respondent No.: MR.Y.V. Ravi Prasad.

2)WRIT PETITION NO : 7687 of 2004

Between:

T. Vijaya Sekhar, S/o Sundara Rao
Licensee of P.T. Booth at Alighting Point at New Bus Stand,
Eluru, West Godavari District

..... PETITIONER

AND

1 The Regional Manager, APSRTC, West Godavari Division, Eluru
2 The Divisional Manager, APSRTC, Eluru Division, West Godavari District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in not implementing and extending the benefits under Circular NO. 83/2003-OPD (C) dt 29-10 2003 for enhancing the period of licence to run the Public Telephone Booth at alighting point in New Bus Station Complex at Eluru, West Godavari District for a period of three years with effect from 1-5-2004 is illegal, arbitrary, erroneous, high handed and contrary to rules and consequently direct the respondents to implement the Circular No. 83/2003 OPD(C), dt 29-10-22003 and extend the period of licence of the petitioner for running the PT Booth at alighting point in New Bus Station Complex, Eluru, West Godavari District for a further period of three years with effect from 1-5-2004.

Counsel for the Petitioner: MR.Y.V.RAVI PRASAD

Counsel for the Respondent : MR.VENKATESWARLU POSANI FOR RVAK.

3)WRIT PETITION NO : 8626 of 2004

Between:

T.Vijaya Sekhar, s/o Sundara Rao,
Licensee of P.T.Booth at Alighting Point at New Bus Stand,
Eluru, West Godavari District.

..... PETITIONER

AND

1 The Regional Manager, A.P.S.R.T.C., West Godavari Division, Eluru.
2 The Divisional Manager, A.P.S.R.T.C., Eluru Division, Eluru, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in issuing the proceedings no.P2/437/(Genl)/2004/RM/WG, dt.21-4-2004 by which the request/option of the petitioner is rejected for extension of licence period for a period of three years is illegal, arbitrary, erroneous, highhanded, unconstitutional and contrary to the Rules and consequently direct the respondents to extend circular No.83/2003-OPD(C), dt.29-10-2003 to the petitioner and extend the licence period for a further period of three years from 1-5-2004 as per the terms and conditions mentioned therein.

Counsel for the Petitioner: MR.Y.V.RAVI PRASAD

Counsel for the Respondent : MR.VENKATESWARLU POSANI FOR RVAK.

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 1701 of 2003, 7687 of 2004

& 8626 of 2004

COMMON ORDER:

-

-

Since common question arises in all these Writ Petitions, they are being taken up together for disposal.

Heard the learned counsel for the petitioners and also the learned Standing Counsel appearing on behalf of the respondents.

The main question which arises for consideration in all these matters is as to whether the petitioners, whose licence periods expired in respect of the shops held to the respondent-corporation, are entitled for renewal in terms of the circulars issued by the respondents-corporation ?

For proper appreciation of the aforesaid question, the facts in W.P.No.1701 of 2003 are suffice to be taken note of. The petitioner in this Writ Petition was allotted telephone booth at alighting point in Eluru new bus station, West Godavari district, in terms of the agreement dated 30.04.2001, which remained in force from 01.05.2001 to 30.04.2003. Accordingly, the petitioner has been running the telephone booth. However, in terms of the circular dated 27.04.2001 issued by the respondents-corporation, the petitioner sought renewal of the said lease for further period of one year and the same was rejected in the impugned orders on the ground that it is not possible to extend the said period especially in view of the agreement already entered into. Similar are the facts in other cases on the expiry of the period mentioned in terms of the agreement, the request made by them was rejected by the respondents.

Learned counsel appearing for the petitioners submitted that having regard to the circular issued by the respondents-corporation, who are bound by the same, the petitioners are entitled to be continued by granting proper renewals. Further, the respondents have not considered the practical side of the fact that the petitioners have come from poor families and have no other livelihood.

The learned standing counsel appearing on behalf of the respondents sought to repeal these contentions.

Considering the submissions made and on perusal of the material, the question as referred to above squarely rests upon the enforceability of the circular issued by the respondents-corporation. There is no dispute in regard to issuance of such circular. There is also no dispute in regard to the fact that the petitioners' entry is only in

terms of the agreement which is restricted for the respective periods. The agreement does not contemplate any such clause for renewal nor entitles the petitioners to continue further. The question as to effect and enforceability of such circular, is no longer *res judicata*. A Division Bench of our Court in *S.Sudhakara Gupta V. A.P.S.R.T.C., Musheerabad, Hyderabad & others* held that such circulars do not create any enforceable right on the lessees and they are only administrative instructions binding on the subordinates of the corporation and therefore, such circulars can not create any legitimate expectation in the licences. Having regard to the principles as laid down, it can not be said that the petitioners are entitled to continue as a right, or seek any relief from this court. Following the said principles, I do not find any merits in the claim of the petitioners and the Writ Petitions fail.

The Writ Petitions are, accordingly, dismissed. No costs.

(B.Prakash Rao, J.)

06.12.2004

DRK

1 The Regional Manager, APSRTC, West Godavari Division, Eluru
2 The Divisional Manager, APSRTC, Eluru Division, West Godavari District

3 The Managing Director, A.P.S.R.T.C., Musheerabad, Hyderabad.

4 Two CD copies.